

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

CURLENE HODGE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:23-cv-00222-RAH-CWB
)	
MUNICIPALITY OF DOTHAN,)	
ALABAMA, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Defendants filed a *Motion to Dismiss or, in the Alternative, for Summary Judgment* (doc. 13) on January 30, 2024. On September 4, 2024, the Magistrate Judge entered a Recommendation that the motion to dismiss be granted. No timely objections have been filed. (Doc. 27.) Upon an independent review of the record and upon consideration of the Recommendation of the Magistrate Judge, it is due to be adopted.


The Court notes that Plaintiff filed the original Complaint (doc. 1) on April 19, 2023, in her individual capacity on behalf of the deceased. She then filed the Amended Complaint (doc. 6) on November 14, 2023, purportedly as the administrator of the decedent's estate. While Plaintiff received her appointment in December 2023 (doc. 14-1 at 10), per the Amended Complaint (doc 6.), Plaintiff still proceeds *pro se*. It also appears that Plaintiff is not the sole beneficiary to the decedent's estate. (Doc. 14-1 at 3, 10; Doc. 14-17 at 3.) As such, Plaintiff, as a *pro se* litigant, may not represent the rights and interests of the decedent's estate in this legal proceeding. *See, e.g., McCants v. United States*, 598 F. Supp. 3d 1342, 1345

(N.D. Ala. 2022) (relying on *Rodgers v. Lancaster Police & Fire Dep't*, 819 F.3d 205 (5th Cir. 2016)); *Ex parte Ghafary*, 738 So. 2d 778, 781 (Ala. 1998) (holding that Alabama law “prohibits a nonattorney executor or personal representative from representing an estate before a court of law. Thus, the complaint personally filed by Donna Stewart as executrix was a nullity.”). Thus, for this additional reason, this matter is due to be dismissed without prejudice.

ORDERED and **ADJUDGED** as follows:

1. The Recommendation (doc. 27) is **ADOPTED**;
2. The Motion to Dismiss (doc. 13) is **GRANTED**;
3. This case is **DISMISSED** without prejudice due to lack of subject matter jurisdiction; and
4. The alternate request for summary judgment (doc. 13) is **DENIED** as moot.

DONE, on this the 25th day of September 2024



R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE